



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Transit Administration**

**[Docket No. FTA-2017-0010]**

### **Response to Comments on National Transit Database Reporting Changes and Clarifications**

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Final response to comments.

**SUMMARY:** This notice responds to comments received on proposed changes and clarifications to the National Transit Database (NTD) reporting requirements published in the Federal Register on October 27, 2017 (ID: FTA-2017-0010).

**DATES:** All proposed changes and clarifications will be effective for NTD report year 2018.

**FOR FURTHER INFORMATION CONTACT:** Maggie Schilling, National Transit Database Program Manager, FTA Office of Budget and Policy, (202) 366–2054 or [maggie.schilling@dot.gov](mailto:maggie.schilling@dot.gov).

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#### A. Background and Overview

The Federal Transit Administration (FTA) published a notice in the Federal Register on October 27, 2017 seeking public comment on several NTD reporting changes and clarifications. The comment period closed on December 26, 2017. FTA intended to implement the proposed changes in report year 2017; however, due to the timing of the notice’s publication, FTA will implement all changes finalized in this Federal Register notice in report year 2018.

Following is a summary of the comments received with FTA responses.

B. Clarifications on reporting requirements related to the Transit Asset Management Program Rule (published July 2016)

a. Definition of Capital Responsibility

FTA received three comments on the proposed definition of capital responsibility. One agency requested a clarification on direct capital responsibility as it relates to transit agencies operating as a tenant railroad on FRA-regulated Class 1 infrastructure.

Specifically, they asked if the railroad co-funds the replacement of guideway assets, does that denote direct capital responsibility? The agency stated that the information necessary to calculate the track performance metric (slow zones) may not be available to the tenant railroad. Finally, the agency asked FTA to consider exempting FRA-regulated Class 1 infrastructure from this definition.

A second agency requested that FTA provide a specific definition of *major repair* and additional clarification on whether subrecipients who "lease or rent a facility for operations or an office space in a larger building for administration" should include language in the lease agreement specifying who has capital responsibility.

Finally, an agency requested clarification on whether both a 'capital line' item expense and management oversight of an asset are required to meet the reporting threshold or if, as stated in the notice, this was intended to be an "or" statement.

FTA Response: If an agency is jointly responsible for funding the replacement of guideway assets this does denote direct capital responsibility for the purposes of the Transit Asset Management rule and NTD reporting requirements. Additionally, FTA does not intend to exempt a tenant railroad operating on FRA-regulated Class 1 infrastructure from the requirements of the Transit Asset Management rule. Successful transit asset

management requires a comprehensive assessment of all the assets necessary to deliver service. Although a transit system may not currently have capital responsibility for an asset, if that asset is essential to the delivery of transit service, then that asset may well become part of a transit system's capital needs in the future. Finally, FTA believes that it is reasonable to expect that a tenant railroad will be provided with enough information to calculate the track performance metric (slow zones) from the host railroad in the normal course of operations.

The current guidance on calculating the track performance metric requires the agency to record the total amount of track under performance restriction at 9 a.m. on the first Wednesday of each month. Daily slow order information provided to operations staff to alert them of service changes should provide the information necessary to calculate the performance metric.

FTA does not currently have a published definition of *major repair* but clarifies that such a repair would be one with a useful life of more than one year. Additionally, FTA does not require an agency to include specific language in a lease or agreement to specify which entity has capital replacement responsibility.

Finally, FTA clarifies that the definition of *capital responsibility* did not intend that both a "capital line" item expense and management oversight of an asset are required to meet the reporting threshold. As stated in the notice, this was intended to be an "or" statement.

FTA will implement the definition of *capital responsibility* as stated in this notice in the FY 2018 NTD Policy Manual.

#### b. Clarification on the Reporting Deadlines for New Assets

FTA did not receive any comments on the clarification that an agency is required to report a new asset to the NTD asset inventory in the fiscal year that the agency begins using the asset for public transportation service. FTA will include this guidance as proposed in the 2018 NTD Reporting Policy Manual.

#### c. Addition of Non-Revenue Service/Yard Track and Total Track Without Capital Replacement Responsibility Category

FTA received four comments related to the inclusion of two additional track types to the asset inventory module: 1) non-revenue service/yard track and, 2) total track without capital responsibility. One commenter expressed their support of the addition of total non-revenue/yard track and total track without capital replacement responsibility.

Although FTA did not specifically request comment on the established track categories of “total tangent track” and “total curved track” in this notice, three commenters stated that these two categories should be combined. One of the commenters believed that separating track into tangent and curved “adds cost to data collection and reporting without adding value to transit agencies or the FTA”. Two commenters further requested that FTA clarify the degree of curvature necessary to differentiate between tangent and curved track. Finally, two commenters recommended three new track categories: 1) mainline track work; 2) special track work (to include guarded curves); and 3) yard/secondary track work.

FTA Response: FTA’s Transit Economic Requirement Model (TERM) used to estimate the transit industry’s state of good repair backlog, which is reported to Congress

biennially, currently includes different useful life assumptions for tangent vs. curved track. FTA has included these track categories for public comment in two past Federal Register notices (ID: FTA-2014-0006-0001 and ID: FTA-2015-0029-0001) and has finalized these categories during that notice and comment process. FTA appreciates the additional industry feedback on these categories but does not intend to make any changes beyond the additional categories proposed in this notice at this time. As the feedback received on the addition of non-revenue service/yard track and total track without capital replacement responsibility category was supportive, FTA will proceed with adding these categories to the database.

FTA will further consider the request for clarification on the degree of curvature necessary for track to be considered curved vs. tangent. Additional guidance will be included in a future notice.

In addition to providing comment on the track categories, one commenter included recommendations for adjusting the guideway categories collected in the NTD asset inventory. The guideway categories were included in two past Federal Register notices for public comment (ID: FTA-2014-0006-0001 and ID: FTA-2015-0029-0001). Based on comments received, the FTA finalized these categories and published them in the Federal Register on July 26, 2016 (ID: FTA-2014-0006-0083). As these comments are outside of the scope of this notice, FTA is not providing response to these suggestions.

#### C. Additional guidance on reportable safety events

FTA received two comments related to the additional guidance on reportable safety events. One agency expressed support for the additional guidance. One agency requested

a clarification on whether a transit revenue vehicle needs to be “in service” when an incident occurs to be considered a reportable safety event.

FTA Response: The definition published in the NTD glossary defines a “revenue vehicle” as “the floating and rolling stock used to provide revenue service for passengers”. It does not specify that a “revenue vehicle” is only considered such when it is in active revenue service. The FTA further clarifies that any event meeting the thresholds for a reportable event and involving a transit revenue vehicle, regardless of whether that vehicle is in revenue service at the time of the event, is reportable to the NTD safety module.

FTA will include the additional guidance as published in the FY2018 Safety Report Manual.

D. Clarifications on reporting requirements for Job Access Reverse Commuter (JARC) fund recipients

FTA Response: FTA did not receive any comments on this clarification. FTA will proceed with the proposal to exempt from NTD reporting any subrecipient that only receives FTA money for Urbanized Area (5307) or Rural Area (5311) funded JARC projects that are not public transportation projects, and does not have any transit operating or capital expenses from any other 5307 or 5311 FTA funding sources.

E. Guidance on distinguishing between commuter and intercity service

FTA received four comments related to the guidance on distinguishing between commuter and intercity service. One commenter stated that the clarification between commuter and intercity service “might imply that all public transportation and intercity transportation are mutually exclusive” and that “such a statement would be contrary to

the plain wording of the statutory definition of *public transportation*.” One commenter requested a clarification of the term “qualified statistician.” They specifically asked if a general consulting firm would be able to complete the work of a qualified statistician. Two commenters stated that requiring a survey of service to establish the percentage of riders taking same day trips when FTA deems it necessary seems “arbitrary.” They requested that FTA set a clear threshold for when a survey would be required. One commenter further believes that the survey seemed overly burdensome.

FTA Response: FTA does not have a published definition of “qualified statistician” but clarifies that a general consulting firm or an individual with education or training in mathematics, statistics, or a related quantitative field would be able to complete the work of a qualified statistician.

FTA did not intend to imply that intercity service and public transportation are mutually exclusive in their entirety. In some cases, commuters may ride intercity service to reach their destination, and in some cases intercity passengers may ride a commuter service to reach their destination. As a clarification, this notice and the previous notice referenced (FTA-2016-0006) are distinguishing between commuter and intercity service for the purpose of allocating service information to an urbanized area in the NTD and for inclusion in the Urbanized Area Formula program.

Intercity service that meets the statutory definition of public transportation at 49 U.S.C 5302 is reportable to the NTD as public transportation service but only the portion that is located within the boundaries of an urbanized area may be attributed to that urbanized area. Intercity service located outside of the urbanized area would be attributable at a rate of 27 percent per 49 U.S.C. 5336. In contrast, service meeting the definition of commuter



service would be fully attributable to the urbanized area regardless of its location.

This notice clarifies that the existing definition of commuter service applies to ferry boats and that ferry service is only fully attributable to an urbanized area if at least 50 percent of passengers are making a return trip on the same day. If the ferry does not meet this threshold, it would be considered intercity service and service located outside of the urbanized area would be attributable at a rate of 27 percent per 49 U.S.C. 5336.

Current FTA policy requires a passenger survey of new commuter service to the NTD to establish that it meets the criteria for reportable commuter rail or bus service. This notice simply extends this requirement to ferry service. Further, FTA recognizes that this survey is both time consuming and costly to an agency. This notice attempted to reduce the burden on agencies by presuming that those services with 100 percent one-way trip times of 90 minutes or less are commuter services, without requiring a passenger survey. The notice did preserve FTA's discretion to survey services outside of this boundary or with characteristics suggesting that they may not meet the definition of commuter service. Those services would still need to complete a survey to establish that they meet the threshold of commuter service.

In response to the request for a more definitive threshold, FTA clarifies that services with 100 percent one-way trip times of 30 minutes or less will not require a survey to establish the service as commuter. FTA will continue to presume that services with 100 percent one-way trip times of 90 minutes or less are commuter services, while maintaining discretion to request a survey of those with service characteristics suggesting that they may not meet the definition of commuter service.

FTA will include these clarifications as presented in the notice and this response in the

## 2018 NTD Policy Manual.

### F. Change to reporting requirements for non-rail for-profit providers of public transportation

FTA received two comments on the proposed change to reporting requirements for non-rail for-profit providers of public transportation. One agency stated that the “safety of passengers and good stewardship of any associate tax dollars is a higher priority” than protecting competitive advantage of for-profit providers. A second agency strongly opposed the change and stated that FTA failed to “provide any evidence” of the assertion that reporting as a full reporter may compromise a company's ability to successfully compete for business. They further expressed concern that most of the identified providers are in the New York-Newark, NY-NJ-CT urbanized area and believed this change would disproportionately reduce the Urbanized Area Formula apportionment for New York. They “urged FTA to eliminate this proposal from further consideration” or issue the proposal for public comment along with additional detail for the public to review.

FTA Response: FTA agrees that the safety of passengers and the good stewardship of public tax dollars are the highest priorities. Although, FTA does not believe that this proposal represents any risk to the safety of transit passengers, FTA is sensitive to the concerns expressed that this proposal could primarily impact the New York-Newark, NY-NJ-CT urbanized area. FTA is withdrawing this proposed change. Reporting requirements will remain the same for non-rail, for-profit providers of public transportation.

### G. Clarification of mechanical failure definitions

FTA received five comments on the clarification of mechanical failure definitions and request for feedback on potential definition changes. Two commenters support the proposed definition change. One commenter requested clarification on “vandalism.” Specifically, they asked FTA to clarify whether a door defect caused by a customer holding a door should be considered vandalism under the proposed definition.

FTA Response: FTA clarifies that a door defect caused by normal interaction with customers boarding and alighting the vehicle, including attempting to hold a door to allow for normal boarding and alighting would not be considered “vandalism.” FTA’s use of the word vandalism was the common definition of willful or malicious destruction or defacement of public or private property.

FTA will implement the proposed definition adjustments. These changes will be reflected in the FY2018 NTD Policy Manual and NTD Glossary.

In addition to clarifications to the mechanical failure definitions, FTA asked for feedback on current utility of the *major mechanical failure* and *other mechanical failure* metrics. FTA also offered two scenarios for adjusting these metrics and requested stakeholder feedback on these scenarios. FTA provides a summary of the feedback received below for stakeholder awareness. As the comments received did not indicate a consensus among stakeholders on the best way to improve the reporting of mechanical failures, FTA is not proposing to make any changes to reporting at this time.

As stated in the original notice, FTA is not recommending any further changes to the *major mechanical failure* and *other mechanical failure* definitions at this time. FTA will use the feedback outlined below to inform any future changes to these data points.

One commenter recommended adjusting the metric to track mean distance between

delays to better align with industry practice and suggested changing the proposed definition of “other mechanical system failures” to include “all failures.”

Another commenter states that collecting major mechanical system failures by fleet rather than mode “would not be an issue” but this has limited utility to an agency because they measure reliability using a different metric. The commenter suggests changing the proposed definition of “other mechanical system failures” to include “all failures”.

Two commenters did not support discontinuing reporting of other mechanical system failures. One stated that FTA should continue to collect it “with the intent to provide value to stakeholders” unless the financial burden is excessive. The second stated that discontinuing the reporting of other mechanical system failures would not reduce agency burden to maintain and analyze failure data.

One commenter stated that changing the reporting threshold to failures requiring a work order would be inconsistent among agencies and would not make reporting more consistent.

One commenter recommended that FTA discontinue the reporting of “partially cancelled trains” as this may be a source of inconsistent reporting.

A final commenter expressed concern that collecting major mechanical system failure by fleet rather than by mode may increase the reporting burden. They requested that FTA clearly articulate how the more granular data set will be used and allow the public to weigh if the utility of the data set balances the potential cost and burden before making any changes to the current metrics.

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